

The Yuma County Board of Adjustment met in a regular session on March 22, 2016. The meeting was held in Aldrich Auditorium at 2351 West 26<sup>th</sup> Street, Yuma, Arizona.

**CALL TO ORDER:** At 1:00 p.m. Chairman Joe Harper convened the Board of Adjustment meeting. Board Members present were: Joe Harper, Tim Eisenmann, and Neil Tucker. Board members absent were: Laurie Colvin and Ron Rice. Others present were: Planning Director Maggie Castro; Associate Planner Marilu Garcia; Chief Building Official Pat Headington; and Executive Assistant Tricia Ramdass.

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Chairman Harper.

**ITEM No. 3: *Approval of the Board of Adjustment regular meeting minutes of February 17, 2016***

MOTION (Eisenmann/Harper): Approve revised minutes as presented.

ROLL CALL VOTE: Harper – AYE; Eisenmann – AYE; Tucker – AYE. The motion carried 3-0.

**ITEM No. 4: *Variance Case No. 15-18:*** Barry Olsen, agent for Hyrum Dee and Bonnie Larsen, requests a variance from the Yuma County Zoning Ordinance, Section 609.07—Maximum Lot Coverage, to allow a lot coverage of 39 percent on a parcel 6,560 square feet in size zoned Recreational Vehicle Subdivision (RVS), Assessor's Parcel Number 728-37-147, located at 13278 East 49th Street, Yuma, Arizona. (*This case was continued from the February 17, 2016 meeting*)

Associate Planner Marilu Garcia presented the staff report recommending denial of Variance Case No. 15-18, based on the following findings:

1. Staff finds there are no peculiar conditions applicable to the property.
2. Staff finds there is no hardship arising from conditions or circumstances unique to the development of this property.
3. Staff finds the conditions are self-imposed.

If the Board approves this Variance, Staff recommended the following conditions:

1. The variance is valid for the time limits outlined in Section 403.07 of the Yuma County Zoning Ordinance.
2. A range disclosure statement and a restricted airspace disclosure statement shall be recorded by the owner/agent within 60 days of approval by the Board of Adjustment.
3. Existing sheds shall meet setback requirements.

Chairman Harper opened the public hearing.

Barry Olsen, agent for Hyrum Dee and Bonnie Larsen, 101 East 2<sup>nd</sup> Street, Yuma, Arizona, explained why he thought the Board should grant the applicants' variance request. He believed the intent of the lot coverage restrictions were to prevent environmental health issues related to septic systems. He maintained that there were

no potential health and safety issues because the outdoor structures did not stress the septic system. His research indicated that his clients purchased the property in 2009 and previous permits did not require variance for lot coverage. He added that the property owners had obtained a permit for the patio structure and followed the permitting process correctly. He maintained that the owners were not notified of lot coverage issues until the final inspection. He informed the Board that staff recommended removal of the two sheds that were on the property prior to 2009.

Chairman Harper asked Mr. Olsen what the property owner would need to do if the variance was not approved.

Mr. Olsen said the two sheds would need to be removed and the owners would need to reduce the area of the enclosed patio and awnings.

Planning Director Maggie Castro informed the Board that a permit had been approved based on an incorrect site plan that was submitted with the application. She explained that the inspector realized that the site plan did not match what was on the property during the final inspection. The property owners were then required to comply with the zoning ordinance by obtaining a variance. She referenced the presentation slide showing the incorrect site plan that was submitted.

Board members asked staff to clarify when construction of the structure had begun and when the permit was approved.

Chief Building Official Pat Headington informed the Board that the Building Safety Division had received a complaint regarding work without a permit. The property owners began construction on the patio before obtaining a permit. He stated that the 2014 permit for the patio had not been obtained until after a stop-work order had been issued. During the permitting process, the property owners had reached an agreement with staff on how the sheds would be handled. Mr. Headington informed the Board that once the permit was approved, the conditions were not followed.

Mr. Olson maintained that the issue was about lot coverage, not permitting. He asked why staff did not recognize the lot coverage issue when they were on the property prior to the permitting process.

Ms. Castro clarified that the staff report indicated a revised site plan was requested. In addition, the revised site plan that was submitted indicated the two sheds would be removed.

Chairman Harper asked if removal of the sheds would fix the lot coverage.

Ms. Castro reiterated that the first site plan submitted did not accurately reflect the construction on the property. The permit was approved based on the incorrect site plan. Staff requested a revised site plan which accurately depicted all the structures on the property. The lot coverage calculated from the revised site plan was thirty-nine percent which violated the zoning ordinance requirements for maximum lot coverage in that zoning district. As a result, a variance would be needed for a lot coverage that exceeded thirty percent.

The Board asked staff if the patio enclosure violated setback requirements.

Ms. Castro said the patio enclosure met all required setbacks. She informed the Board that regardless of the use, the maximum allowed lot coverage for that zoning district was thirty percent. The property owners were in violation of the zoning ordinance because the structures on the lot exceeded thirty percent.

Chairman Harper closed the public hearing.

MOTION (Eisenmann /Tucker): Deny Variance Case No. 15-18.

ROLL CALL VOTE: Tucker – AYE; Harper – AYE; Eisenmann – AYE. The motion carried 3-0.

**ITEM No. 5: Variance Case No. 16-03:** Mary S. Slebos requests a variance from the Yuma County Zoning Ordinance, Section 1108.03—Fences, Walls and Hedges, to allow a fence six feet seven inches in height along the rear property line on a parcel 9,100 square feet in size zoned Low Density Residential- 6,000 square feet minimum (R-1-6), Assessor's Parcel Number 701-26-044, located at 12343 East Calle Maria, Yuma, Arizona.

Associate Planner Marilu Garcia presented the staff report recommending denial of Variance Case No. 16-03, based on the following findings:

1. Staff finds there are no peculiar conditions applicable to the property.
2. Staff finds there is no hardship arising from conditions or circumstances unique to the development of this property.
3. Staff finds the conditions are self-imposed.

If the Board approves this Variance, Staff recommended the following conditions:

1. The variance is valid for the time limits outlined in Section 403.07 of the Yuma County Zoning Ordinance.
2. An avigation disclosure statement shall be recorded by the owner within 60 days of approval by the Board of Adjustment.

Chairman Harper opened the public hearing.

Board members asked why the case was required because the walls in the picture appeared to be the same height.

Ms. Garcia explained that the department had received a complaint regarding the wall height on the property. Subsequently, a notice of violation was issued which triggered the requirement for a variance. No complaints had been filed for the other properties.

Planning Director Maggie Castro informed the Board that the picture they had referenced was one property. She further clarified that many properties throughout the subdivision had walls exceeding the maximum allowed height for that zoning district, however no complaints have been received.



Chairman Harper asked if granting the variance would cause issues regarding fire department access as it pertains to wall height.

Ms. Castro told the Board that staff sends request for comments to emergency response agencies and no comments were received from Rural Metro.

Chairman Harper opened the public hearing.

Chris Slebos, property owner, 12343 East Calle Maria, Yuma, Arizona, spoke on behalf of his spouse Mary S. Slebos and asked the Board to approve the requested variance. He explained that the property abutted North Frontage Road and the lower wall height presented safety and security concerns for him and his wife. He added that several other properties within the subdivision had wall heights that exceeded the maximum allowance and no variances were on file for those properties. He said people could see into his back yard from the frontage road. There had been several thefts reported for neighboring properties and the addition of the wall height had not only improved the property, but had greatly alleviated their safety concerns. He believed that removal of the additional block row would adversely affect the improvement of the property. He did not believe there were any health or public safety issues at stake if the Board approved the variance.

Elizabeth Carpenter, real estate agent for the property owners, 10602 Camino Del Sol, Yuma, Arizona, said she believed the owners acted in good faith and did not intend to violate the zoning ordinance. She said that the property owners hired Felix Fencing for the wall addition and were told by the contractor that the addition of two rows of block would be within the required height limit. They believed that the company informed them correctly because several other property owners in the area had used the company to increase the height of their walls. Because the other owners had not been required to obtain a variance, her clients believed that there would not be any issues with the same improvement to their property. Ms. Carpenter also explained that the property owners had placed the property on the market because they were moving for health reasons. She said the additional wall height had improved the ability to sell the house by increasing privacy and reducing traffic noise.

Chairman Harper said he agreed that noise abatement was an issue for properties situated next to busy roads and highways. He would like to see the Planning and Zoning Commission initiate changes to the height requirements in those areas.

Chairman Harper closed the public hearing.

MOTION (Eisenmann/Tucker): Approved subject to staff recommendations.

ROLL CALL VOTE: Tucker – AYE; Harper – AYE; Eisenmann – AYE. The motion carried 3-0.

**ITEM No. 6: Variance Case No. 16-04:** Chris Morris, agent for Douglas Larison, requests a variance from the Yuma County Zoning Ordinance, Section 609.07—Maximum Lot Coverage, to allow a lot coverage of 43 percent on a parcel 6,560 square feet in size zoned Recreational Vehicle Subdivision (RVS), Assessor's Parcel Number 728-37-282, located at 13280 East 49th Lane, Yuma, Arizona.

Associate Planner Marilu Garcia presented the staff report recommending denial of Variance Case No. 16-04, based on the following findings:

1. Staff finds there are no peculiar conditions applicable to the property.
2. Staff finds there is no hardship arising from conditions or circumstances unique to the development of this property.
3. Staff finds the conditions are self-imposed.

If the Board approves this Variance, Staff recommended the following conditions:

1. The variance is valid for the time limits outlined in Section 403.07 of the Yuma County Zoning Ordinance.
2. A range disclosure statement and restricted airspace disclosure statement shall be recorded by the owner within 60 days of approval by the Board of Adjustment.
3. Existing shed shall meet setback requirements.

Ms. Garcia stated that an incorrect site plan had been submitted by the applicant or agent during the permitting process. As a result, the permit was approved using a lot coverage calculated at a percentage which did not accurately reflect all the structures on the lot. She had received one comment in support of the variance and no opposition.

Board members asked if the structure that the property owner wanted to convert to livable space was currently in violation.

Ms. Garcia confirmed that the structure was in violation of the zoning ordinance because the lot coverage exceeded the amount allowed for that zoning district.

Planning Director Maggie Castro reiterated that the building permit for that structure was approved based on the incorrect site plan. The site plan submitted for plan review showed only the manufactured home and the structure and did not include the awnings on the east and west side of the home.

Chairman Harper asked when the awnings were installed.

Ms. Garcia said the awnings and manufactured home were installed at the time the manufactured home was installed and were included under that permit.

Board members received clarification on the site plan regarding the location of the structure.

Chairman Harper opened the public hearing.

Chris Morris, agent for Douglas Larison, Calculated Designs, 2615 East 24<sup>th</sup> Street, Yuma, Arizona, said that the purpose of the thirty percent lot coverage in the RVS zoning district was to avoid encroachment on the septic. The lot coverage would be fifty percent if the property were hooked up to sewer. He reasoned that none of the structures on the property were too close to the septic system as required by Environmental Health. He maintained that the conditions would not change by enclosing an area that was already concrete and covered. He said that all the structures were already exceeding the lot coverage. He said that the regular practice during permit

review is to check the parcel files. He added that the building inspectors did not mention the lot coverage issue during the inspections. He told the Board that if the variance was not granted, the enclosure would need to be removed. He said the property owner was not opposed to removing the shed that is not meeting the setback requirements.

Chairman Harper deduced that if the area were converted to living space, occupancy would increase which would increase the stress on the septic system.

Mr. Morris said that Environmental Health would review that issue during the plan review process.

Chairman Harper closed the public hearing.

MOTION (Tucker/Eisenmann): Deny Variance Case No. 16-04.

ROLL CALL VOTE: Tucker – AYE; Harper – AYE; Eisenmann – AYE. The motion carried 3-0.

**ITEM No. 7: Variance Case No. 16-05:** Chris Morris, agent for Teresa Moore, requests a variance from the Yuma County Zoning Ordinance, Section 609.05—Minimum Lot Width and Principal Buildings Setback Requirements, to allow a west side yard setback of three feet on a parcel 7,168 square feet in size zoned Recreational Vehicle Subdivision (RVS), Assessor's Parcel Number 728-32-019, located at 13863 East 46th Street, Yuma, Arizona.

Associate Planner Marilu Garcia presented the staff report recommending denial of Variance Case No. 16-05, based on the following findings:

1. Granting this variance appears to confer a special privilege not enjoyed by others in the zoning district.
2. Staff finds there are no specific peculiar conditions applicable to this property to warrant granting a variance.
3. Staff finds the conditions are self-imposed.

If the Board approves this Variance, Staff recommended the following conditions:

1. The variance is valid for the time limits outlined in Section 403.07 of the Yuma County Zoning Ordinance.
2. One-hour resistance construction required where exterior walls are less than five feet zero inches from a property line.
3. A range disclosure statement and restricted airspace disclosure statement shall be recorded by the owner/agent within 60 days of approval by the Board of Adjustment.

Ms. Garcia had received one comment in favor of the variance and no opposition.

Chairman Harper opened the public hearing.

Chris Morris, agent for Teresa Moore, Calculated Designs, 2615 East 24<sup>th</sup> Street, Yuma, Arizona, explained that the property owner wanted to convert the RV structure into

habitable space in order to have a site-built home on the property. The current location of the structure was previously allowed before the new zoning ordinance was adopted. He said the structure would need to be moved three feet forward to meet the current setback requirements for a site-built dwelling under the current Yuma County Zoning Ordinance.

Board members asked if the porch was in violation of the setback requirements and if the RV structure was permitted.

Staff explained that the porch was open so the current placement was allowed. The RV structure was permitted prior to the year 2000; however structures with plumbing after that date are required to have a seven-foot setback.

Mr. Morris informed the Board that the structure was already enclosed and the property owner wanted to change the use of the structure to living space. The space would need to meet insulation, electrical, and fire code requirements if the variance was approved.

The Board asked for clarification on which structures and areas on the site plan were enclosed, the size of the enclosed portion of the structure, and the location of plumbing.

Planning Director Maggie Castro explained which portions on the site plan were enclosed.

Mr. Morris confirmed that the structure was twelve feet deep and twenty-four feet wide. He also indicated where the plumbing was located and where the add-on to the structure would be placed.

Chairman Harper closed the public hearing.

MOTION (Tucker/Eisenmann): Deny Variance Case No. 16-05.

ROLL CALL VOTE: Tucker – AYE; Harper – NAY; Eisenmann – AYE. The motion carried 2-1.

**ITEM No. 8:** Discussion by the Board members and Planning Director of events attended, current events, and the schedule for future Board of Adjustment meetings.


There was no discussion by the Board members or the Planning Director.

There being no further business to come before the Board, the Chairman adjourned the meeting at 2:00 p.m.

Approved and accepted on this 19<sup>th</sup> day of April, 2016.

  
\_\_\_\_\_  
Joe Harper, Chairman

ATTEST:

  
\_\_\_\_\_  
Maggie Castro, Planning Director

Maggie Castro, Planning Director